

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JAMES BAGWELL,

Plaintiff,

vs.

CIVIL ACTION NO. 11-10032

HONORABLE DENISE PAGE HOOD

**OAKLAND COUNTY SHERIFF'S
OFFICE,**

HONORABLE MONA K. MAJZOUN

Defendant. /

**ORDER DENYING AS MOOT PLAINTIFF'S "MOTION FOR INCREASED
AMENDMENTS AND COMPENSATORY DAMAGES AND MODIFICATION OF
ORIGINAL COMPLAINTS AND AMENDMENTS" (DOCKET NO. 6)**

On January 4, 2011 Plaintiff filed this action against Oakland County Sheriff's Office pursuant to 42 U.S.C. § 1983. On January 27, 2011 Plaintiff filed a "Motion for Increased Amendments and Compensatory Damages and Modification of Original Complaints and Amendments." (Docket no. 6). Plaintiff also filed a letter which appears to be an amended complaint. (Docket no. 7). Plaintiff's motion and all pretrial matters have been referred to the undersigned for action. (Docket no. 12). The Court dispenses with oral argument on the motion pursuant to E.D. Mich. LR 7.1(f). This matter is now ready for ruling under 28 U.S.C. § 636(b)(1)(A).

The Court will construe Plaintiff's "Motion for Increased Amendments and Compensatory Damages and Modification of Original Complaints and Amendments" (docket no. 6) as a Motion to Amend the Complaint. Federal Rule of Civil Procedure 15(a) provides that a "party may amend its pleading once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21

days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed.R.Civ.P. 15(a)(1)(A),(B). Otherwise “a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.” Fed.R.Civ.P. 15(a)(2).

Plaintiff filed the instant motion well before Defendant returned its executed waiver of service and before Defendant filed its Motion to Dismiss. Therefore, Plaintiff was not required to seek the Court’s permission to file an amended complaint. Accordingly, Plaintiff’s motion is moot. The Court will construe Plaintiff’s letter filed at docket no. 7 as his amended complaint.

IT IS THEREFORE ORDERED that Plaintiff’s “Motion for Increased Amendments and Compensatory Damages and Modification of Original Complaint and Amendments” (docket no. 6) is **DENIED AS MOOT**.

NOTICE TO PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: April 29, 2011

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon James Bagwell and Counsel of Record on this date.

Dated: April 29, 2011

s/ Lisa C. Bartlett
Case Manager